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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

NADIA MARIE KALOUSEK-TEMPLE
1623 Via Fortuna
San Jose, CA 95120

Physical Therapist License No. PT 19825

Respondent.

Case No. 1D-2003-63415
OAH No. N2006030607

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Complainant Steven K. Hartzell is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by Vivien
H. Hara, Deputy Attorney General.

2. Respondent Nadia Marie Kalousek-Temple has chosen not to be
represented by counsel in this proceeding, but she is fully aware of her rights in this matter..

3. On or about April 18, 1994, the Physical Therapy Board of California
issued Physical Therapist License No. PT 19825 to Nadia Marie Kalousek-Temple

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1 (Respondent”). This license was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 1D-2003-63415 and will expire on February 28, 2008, unless
3 renewed.

4 **JURISDICTION**

5 4. Accusation No.1D-2003-63415 was filed before the Physical Therapy
6 Board of California, Department of Consumer Affairs (“Board”), and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent. Respondent timely filed her Notice of Defense contesting the Accusation. A
9 copy of Accusation No. 1D-2003-63415 is attached as exhibit A and incorporated herein by
10 reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read and fully understands the charges and
13 allegations in Accusation No. 1D-2003-63415. Respondent has also carefully read and fully
14 understands the effects of this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
18 the right to present evidence and to testify on her own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily and knowingly waives and gives up each right set
23 forth above.

24 **CULPABILITY**

25 8. Respondent understands and agrees that the charges and allegations in
26 Accusation No. 1D-2003-63415, if proven at a hearing, constitute cause for imposing discipline
27 upon her Physical Therapist License.

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1 9. For the purpose of resolving the Accusation without the expense and
2 uncertainty of further proceedings, Respondent admits, as alleged in paragraphs 17 and 18 of the
3 accusation, that she failed to provide within seven days a documented review and a dated co-
4 signature on treatment notes entered by a physical therapist assistant Nelson Mant Tumanda on
5 Patient B on nine (9) occasions between November 6, 2001 and January 19, 2002 and/or failed to
6 schedule a weekly, documented case conference with the physical therapist assistant in violation
7 of Business and Professions Code section 2630 and Title 16 California Code of Regulations
8 section 1398.44(f). Further, respondent admits that with respect to patient B, she failed to
9 establish a regularly scheduled and documented case conference between the physical therapy
10 assistant and herself, in violation of Business and Professions Code section 2630 and Title 16
11 California Code of Regulations, section 1398.44(g).

12 10. Respondent agrees that her Physical Therapist License is subject to
13 discipline, and she agrees to be bound by the Board's imposition of discipline as set forth in the
14 Disciplinary Order below.

15 **CIRCUMSTANCES IN MITIGATION**

16 11. Respondent has never before been the subject of any disciplinary action
17 and has admitted responsibility at an early stage in the proceedings.

18 **RESERVATION**

19 12. The admissions made by Respondent herein are only for the purposes of
20 this proceeding, or any other proceedings in which the Physical Therapy Board of California, or
21 other professional licensing agency is involved, and shall not be admissible in any other criminal
22 or civil proceeding.

23 **CONTINGENCY**

24 13. This stipulation shall be subject to approval by the Physical Therapy
25 Board. Respondent understands and agrees that counsel for Complainant and the staff of the
26 Board may communicate directly with the Board regarding this stipulation and settlement,
27 without notice to or participation by Respondent. By signing the stipulation, Respondent
28 understands and agrees that she may not withdraw his agreement or seek to rescind the

1 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
2 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
3 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
4 the parties, and the Board shall not be disqualified from further action by having considered this
5 matter.

6 14. The parties understand and agree that facsimile copies of this Stipulated
7 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
8 force and effect as the originals.

9 15. In consideration of the foregoing admissions and stipulations, the parties
10 agree that the Board may, without further notice or formal proceeding, issue and enter the
11 following Disciplinary Order:

12 **DISCIPLINARY ORDER**

13 IT IS HEREBY STIPULATED AND AGREED, based upon the above
14 stipulations and recitals, that the Board, upon its approval of the Stipulation herein set forth, may,
15 without further notice, enter a Decision whereby Respondent Nadia Marie Kalousek-Temple, as
16 holder of Physical Therapist License No. PT 19825, shall, by way of letter from the Board, be
17 publicly reprovved; provided, however, that said public reprovval is conditional upon Respondent's
18 full compliance with the following conditions precedent:

19 1. **WRITTEN EXAMINATION ON THE LAWS AND REGULATIONS**
20 **GOVERNING THE PRACTICE OF PHYSICAL THERAPY.** Within 90 days of the effective
21 date of this decision, Respondent shall take and pass the Board's written examination on the laws
22 and regulations governing the practice of physical therapy in California. If respondent fails to
23 pass the examination, Respondent shall be suspended from the practice of physical therapy until
24 a repeat examination is successfully passed.

25 2. **COST RECOVERY.** Respondent is ordered to reimburse the Board the
26 actual and reasonable prosecutorial costs in this matter of \$5,292.50. Said costs shall be reduced,
27 however, and the remainder forgiven, if Respondent pays \$1000.00 within ninety (90) days of the
28 effective date of this Decision. In the event Respondent fails to pay the ordered reimbursement

1 within 90 days of the effective date of this decision, the full amount of costs shall be immediately
2 due and payable. Failure to pay ordered amount of reimbursement, or any agreed upon payment,
3 may constitute a violation of this order. The filing of bankruptcy by Respondent shall not relieve
4 Respondent of her responsibility to reimburse the Board. If Respondent is in default of his
5 responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise
6 Tax Board, the Internal Revenue Service, or by any other means of attachment of earned wages
7 legally available to the Board. Failure to fulfill the obligation could also result in attachment to
8 Department of Motor Vehicle registrations or license renewal.

9 3. FAILURE TO COMPLY WITH ORDER. A material breach by
10 Respondent of this order shall constitute unprofessional conduct and shall be a basis for further
11 disciplinary action by the Board. In such circumstances, Complainant may reinstate the
12 Accusation in Case No. 1D 2003 63415, file an amended accusation, and/or file a supplemental
13 accusation alleging any material breach of this order by Respondent as unprofessional conduct.

14 **OTHER MATTERS**

15 1. Upon full compliance with the conditions precedent set forth in this
16 Stipulation, Respondent's license shall be publicly reprovved by way of a letter from the Board,
17 which shall be in the same form as the letter attached hereto as Exhibit B.

18 2. It is not contrary to the public interest for Respondent to practice and/or
19 perform her duties as a physical therapist because she is subject to this disciplinary order.
20 Accordingly, it is not the intent of the Board that this order or the fact that Respondent has been
21 publicly reprovved shall be used as the sole basis for any third party payor to remove Respondent
22 from any list of approved providers.

23 **ACCEPTANCE**

24 I have carefully read the above Stipulated Settlement and Disciplinary Order and
25 have fully discussed it with my family and other advisors. I understand the stipulation and the

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1 effect it will have on my Physical Therapist License . I enter into this Stipulated Settlement and
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Physical Therapy Board of California.

4 DATED: August 17, 2006.

5 Original Signed By:
6 NADIA MARIE KALOUSEK-TEMPLE
7 Respondent

8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Physical Therapy Board of California of the Department of
11 Consumer Affairs.

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13 DATED: August 23, 2006.

14 BILL LOCKYER, Attorney General
15 of the State of California

16 Original Signed By:
17 VIVIEN H. HARA
18 Deputy Attorney General
19 Attorneys for Complainant
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Exhibit A

Accusation No. 1D 2003 63415

Exhibit B

**Draft Public Reproval
Case No. 1D 2003 63415**

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**NADIA MARIE KALOUSEK-TEMPLE,
PT**

Physical Therapist License No. PT 19825

Respondent.

Case No. 1D 2003 63415
OAH No. N2006030607

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 29, 2006.

It is so ORDERED August 30, 2006.

Original Signed By: _____

PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Donald A. Chu, PhD, PT, President